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Before the  
Federal Communications Commission  
Washington, D.C. 20036

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Biennial Regulatory Review- )  
Amendment of Parts 9,1, 13, )  
22, 24, 27, 80, 87, 90, 95, 92, )  
and 101 of the Commission's ) WT Docket 98-20  
Rules to Facilitate the )  
Development and Use of the )  
Universal Licensing System )  
In the Wireless Telecommuni- )  
cations Service )  
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Amendment of the Amateur )  
Service Rules to Authorize )  
Visiting Foreign Amateur ) WT Docket 98-188  
Operators to Operate Stations in )  
in the United States )

To: The Commission

PETITION FOR RECONSIDERATION OF THE  
FEDERAL COMMUNICATIONS BAR ASSOCIATION

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### Summary

The Federal Communications Bar Association ("FCBA") hereby seeks reconsideration of certain rulings made in the FCC's Report and Order ("Order") in the Commission's Universal Licensing System ("ULS") proceeding. The FCBA seeks reconsideration of certain of the obligations imposed by the Order with respect to the reporting of Taxpayer Identification Numbers ("TINs"). The FCBA believes that the Federal Debt Collection Improvement Act ("DCIA") only requires that TINs be submitted for FCC applicants and licensees and not for the applicant owners, officers and directors included by the Order. In the alternative, the FCBA asks that the FCC not seek TIN information for certain entities whose interests are reportable under new Form 602 but which do not have a controlling interest in the applicant.

The FCBA also maintains that the FCC erred in eliminating the possibility of reinstatement for late-filed wireless license renewal applications. We believe that the FCC will, in the end, reinstate and grant the late-filed renewal applications of licensees which have operating systems because the public interest would be served by so doing. Accordingly, we believe that the FCC's rules and/or policies should provide straightforwardly for the possibility of such reinstatements.

The FCBA asks the FCC to clarify its definition of "site specific" and "geographic" wireless licenses and clarify that maps may soon be be filed in electronic form. Current ULS procedures requiring a cellular system map to be filed on paper separately from the electronically-filed application of which it is a part are clearly unacceptable.

The FCBA asks once again that the FCC permit World Wide Web access to the ULS. The evidence shows that Internet filings can be made with adequate security and it would be much more convenient for filers to be able to file via the Internet than to continue the policy of requiring only point-to-point protocol access.

Finally, in light of the inherent difficulties involved in the commencement of electronic filing, The FCBA once again requests that the FCC permit a 24 hour "grace period" for time sensitive filings. Such a grace period would go far toward alleviating the apprehensions many licensees have concerning the mandatory July 1, 1999 ULS deadline.

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**PETITION FOR RECONSIDERATION  
OF THE FEDERAL COMMUNICATIONS BAR ASSOCIATION**

The Federal Communications Bar Association ("The FCBA")<sup>1</sup>  
hereby files a Petition for Reconsideration of the Report and Order

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<sup>1</sup> The FCBA is a non-profit, non-stock corporation organized under the laws of the District of Columbia, and has been in existence since 1936. The FCBA's membership consist of over 3,100 attorneys and other professionals involved in the development, interpretation and practice of communications law and policy. This Petition was prepared by a task force under the direction of the FCBA's Wireless Telecommunications Practice Committee. As in the case of other comments filed on behalf of the FCBA, the views expressed in this Petition do not necessarily reflect the views of each and every The FCBA member. No FCBA members who are employees of the FCC participated in the preparation or review of this Petition.

in the above-captioned dockets.<sup>2</sup> In response to the Commission's Notice of Proposed Rulemaking in the above-captioned docket,<sup>3</sup> the FCBA, under the auspices of its Wireless Telecommunication Practice Committee ("WTPC"), assembled a task force comprised of attorneys representing a variety of wireless licensees in different radio services to review the proposed new rules, forms, and electronic filing procedures proposed in the NPRM. As a consequence of the task force's efforts, in May and June, 1998, the FCBA filed comments and reply comments on the NPRM. Those filings dealt with a variety of issues and the FCBA is grateful for the careful consideration our comments received in the Order<sup>4</sup> and for the Commission's willingness to extend the transition period to the Universal Licensing System ("ULS") until July 1, 1999, as a result of the comments of the FCBA and others.

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<sup>2</sup> Biennial Regulatory Review - Amendment of Parts 9, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of Universal Licensing System in the Wireless Telecommunications Services, Amendment of the Amateur Service Rules to Authorize Visiting Foreign Amateur Operators to Operate Stations in the United States, WT Dockets 98-20, 96-188 98-234, Report and Order, released October 21, 1998 ("Order").

<sup>3</sup> Biennial Regulatory Review-Amendment of Parts 9, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of Universal Licensing System in the Wireless Telecommunications Services, WT Docket No. 98-20, FCC 98-25, Notice of Proposed Rulemaking ("NPRM") (rel. March 18, 1998).

<sup>4</sup> See, e.g., Order, ¶43, ¶53, ¶54, ¶60, ¶183, ¶122.

The FCBA continues to support each of the positions taken and proposals made in its comments and reply comments and believes that the ULS would have been improved by their adoption. However, the FCBA recognizes that the FCC is now unlikely to adopt certain proposals, particularly in light of the July 1999 ULS transition deadline, and the WTPC thus believes that it will be more productive to work informally with the staff of the Wireless Telecommunications Bureau ("WTB") concerning other largely technical or "nuts and bolts" ULS transition issues. Accordingly, the FCBA confines this petition to those few matters of greatest importance to its members, and the FCC licensees they represent, where reconsideration is urgently necessary and appropriate.

The FCBA therefore seeks reconsideration of: (1) the Order's rulings regarding Taxpayer Identification Numbers, which will still require unnecessary and burdensome information gathering and disclosures of such numbers; (2) the Order's changes in the rules regarding reinstatement of license renewal applications, which are draconian and will prove, in practice, to be unenforceable; (3) certain points in the Order which need to be clarified if the ULS is to work properly; and (4) certain computer/technical rulings in the Order, which, if left unchanged, will undermine the workings and promise of the ULS.

I.    The   FCC   should   Reconsider   its   Decision  
Regarding   The   Reporting   of   Taxpayer  
Identification Numbers

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In its comments on the NPRM, the FCBA objected to certain of the reporting obligations proposed with respect to Taxpayer Identification Numbers ("TINs"). Specifically, the FCBA argued that some of the proposed obligations (e.g., the obligation to report TINs for businesses in which an officer or director of the FCC applicant holds a 10 percent interest) were overly broad, unduly burdensome, and beyond the scope of the reporting obligations envisioned or authorized by the Federal Debt Collection Improvement Act of 1996 ("DCIA"). The FCBA urged the Commission to require TINs only from FCC applicants or licensees themselves, since these are the true recipients of federal benefits and are the sole entities "doing business with" the FCC by law.<sup>5</sup>

In its Order, the Commission declined to refine its TIN reporting requirements. Instead, the Commission stated its belief that "those with attributable interests under section 1.2112 of the Commission's Rules" should be considered "as being 'applicant[s] for, or recipient[s] of, a Federal license...' for purposes of the DCIA."<sup>6</sup> As support, the Commission cites information provided on

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<sup>5</sup> The FCBA Comments at 28-31.

<sup>6</sup> Order, ¶ 139.

an Internet world web site apparently maintained by the United States Treasury Department.<sup>7</sup> The FCBA respectfully submits that these reporting obligations exceed the scope of the DCIA and that the Commission should reconsider its decision.

First, it is apparent from the information provided on the web site that the DCIA was not intended to reach beyond those directly doing business with, or receiving benefits from, the federal government. Thus, the response to TIN question number 1 on the web site provides:

1. Are all agencies now required to obtain taxpayer identifying numbers (TINs)? Yes. There are no exceptions under the DCIA. An agency is required to obtain TINs in any case which may give rise to a receivable where the individual or entity is considered to be doing business with the Government. Covered under the category of doing business with the Government are: lenders and servicers under federal guaranteed or insured loan programs; **applicants for and recipients of Federal licenses, permits, right-of-ways, grants, or benefit payments; contractors; and entities and individuals owing fines, fees, royalties, or penalties to the agency.**<sup>8</sup>

This response makes it clear that it is only the applicant or licensee itself whose TIN is sought by the DCIA. The response expressly states that the reporting obligation applies

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<sup>7</sup> Id., nn. 306, 311, directing the public to the following world wide web site: <<http://www.fms.treas.gov/debt/dmfaq.html#TINs>>.

<sup>8</sup> <http://www.fms.treas.gov/debt/dmfaq.html#TINs>, Question No. 1(emphasis within response supplied).

with respect to entities which have been conferred a benefit by the government and are considered to be doing business with the government. Entities within the category of those "doing business" with the government are "applicants for and recipients of Federal licenses..." The response says nothing of *underlying parties* to applications (let alone non-controlling parties).<sup>9</sup>

The FCBA submits that the information provided on this web site provides valuable guidance in determining the underlying intent and scope of the DCIA, since the response to the question was developed by the agency with jurisdiction to interpret and implement the DCIA. The FCC should not substitute its own judgment in the place of the expert agency tasked with implementation of that Act. In light of the foregoing, the FCBA respectfully requests that the Commission reconsider its decision to require the reporting of TIN information for entities other than the applicant or licensee.

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<sup>9</sup> The FCBA also submits that the failure of the response to mention underlying parties of, for example, a corporate applicant or licensee cannot be construed as a mere omission. Corporate, partnership and other non-individual based organizational structures are common enough that, had the DCIA been intended to reach, for example, officers, directors and other non-controlling parties of such entities, that intent would have been made explicit (e.g., by inclusion of, or reference to, those individuals and parties in the definition of "doing business with" the government).

Second, should the FCC decline to reconsider its decision as requested above, the FCBA requests that the Commission reconsider or clarify a more narrow portion of its decision with respect to TIN reporting requirements. Specifically, in its comments, the FCBA objected to the filing of TIN information for entities in which any person or entity identified in Item Number 3 to the FCC Form 602 (even a 10 percent holder of debt securities) holds a 10 percent or greater interest. Although the entity ultimately identified in Item 11(a) to the Form 602 and the applicant have a 10 percent ownership interest in common, which is often their only nexus, they could very well, and are likely to be, completely unrelated otherwise<sup>10</sup>. TIN information with respect to such entities is completely irrelevant with respect to the applicant or licensee attempting to file an application with the FCC. Thus assuming, *arguendo*, that the Commission's reasoning is correct (*i.e.*, that parties with attributable interests in applicants and licensees enjoy a financial benefit from their operation and therefore can be deemed "applicants" themselves) this argument would not hold true for the completely unrelated third party entities identified in Item 11.

Moreover, it could well be that the Commission did not

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<sup>10</sup> In fact, a 10% minority interest may be their only interest, cognizable or not, in common.

actually intend this result. While the Form 602<sup>11</sup> requires that such TIN information be provided, it appears as though the Commission in its Order may not have intended to impose the reporting obligation this broadly. The Order provides: "Applicants and licensees who must identify officers, directors, and holders of ownership interests in the licensee of 10 percent or greater pursuant to section 1.2112(a) must supply the TINs of such officers, directors, interest holders."<sup>12</sup> The *Order* does not indicate that TIN information must be filed with respect to the unrelated third party businesses in which those officers, directors or interest holders have a 10 percent or greater interest.

In light of the foregoing, the FCBA respectfully requests that the Commission reconsider, at a minimum, that portion of its decision which would require the submission of TIN information for third party entities unrelated to the applicant or licensee. To the extent that the Commission did not intend to impose such an obligation in the first place, the FCBA respectfully requests that the Commission clarify its earlier decision in that regard.

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<sup>11</sup> Item No. 11, and Instructions as page 6, Item No. 11.

<sup>12</sup> Order, para. 141.

## II. The FCC Should Permit Reinstatement Applications

The FCC, despite an overwhelming majority of adverse comments,<sup>13</sup> has chosen to "eliminate reinstatement procedures" for license renewal applications in all wireless services. See Order, ¶96. We reiterate our previously expressed position that this is a profound mistake and ask that it be reconsidered.

The Commission has reached this conclusion for the following reasons: (1) under ULS procedures wireless licensees will be notified by letter ninety days prior to the expiration of their licenses thus making renewal filings likely; (2) interactive filing will make it easier to file renewal applications; (3) renewal forms will be readily obtained under ULS; (4) elimination of a "reinstatement period" will benefit those interested in acquiring "abandoned" spectrum; and (5) the FCC's efficiency will be improved by not having to process late-filed renewal and reinstatement applications. Order, at ¶96-98.

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<sup>13</sup> See, e.g. Winstar Comments at 10-11; AMTA Comments at 5-6; APCO Comments at 4-5; API Comments at 11 and Reply Comments at 12; SBC Comments at 13-14; Bennet Comments at 6-7; The FCBA Comments at 39-40; FIT Comments at 15-16; NSMA Comments at 13;; PCIA Comments at 9; ADT Comments at 8 and Reply Comments at 4; AICC Comments at 8-9 and Reply Comments at 4; AAA Comments at 8; ITA Reply Comments at 4; Radiophone Reply Comments at 4; Century Comments at 11; PNI Comments at 2; SBT Reply Comments at 7; Ameritech Reply Comments 15 8-9.

These reasons, however, fail to take into account the extenuating circumstances under which reinstatement applications will usually be filed and the serious consequences for inadvertent late renewal filings. Namely, such late renewal applications will most often be filed when a licensee has constructed, at large cost, a wireless system, has complied with the FCC's rules, and has provided good service to its customers, but inexplicably has failed to file its renewal application on time.

The reason simply may be that the ULS reminder letter goes to the wrong address<sup>14</sup> or the licensee or its lawyer may have forgotten to file a timely renewal application. Or it may be that the key record keeping personnel of a licensee change or its lawyer is replaced or the computerized license expiration date records are not checked. In sum, there are any number of possibilities which can be classified under the general heading of "Murphy's Law."

In such circumstances, once its owner realizes what has occurred, the licensee will naturally seek reinstatement and

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<sup>14</sup> FCC record keeping has in the past, not always kept up with licensee address changes, even those which have been called to the Commission's attention. The ULS may be perfect in this regard; but then again, it may not be. Additionally, if a licensee fails to advise the Commission of an address change, causing the advisory letter to be misdelivered, loss of the license appears to be a particularly harsh penalty.

renewal of its license or a waiver of the rules, if that is necessary, to obtain such reinstatement and renewal. If the past is any guide, under those circumstances the Commission would likely grant such an application.<sup>15</sup> And, if the Commission did not, for whatever reason, do so, the licensee would certainly pursue an appeal of the loss of its license through every possible level of appellate review.

The FCBA once again submits that an ostensibly draconian but probably unenforceable policy of denying all reinstatement requests will generate more litigation and administrative difficulty, in the form of STA requests, requests for waiver, appeals and requests for stays of the auctioning of licensee's "abandoned" spectrum, than would a straightforward rule or policy, stating that licensees may, under appropriate circumstances, seek and receive license reinstatements and renewals. The rule or policy should provide that there will be a presumption that such reinstatements will be granted if the system has been constructed and is operating in accordance with FCC rules and the request has been made within 30 days of license expiration.<sup>16</sup>

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<sup>15</sup> See Industrial Communications & Electronics, 13 FCC Rcd. 8417 (CWD 1998); Space Mark Communications, 5 FCC Rcd. 6644 (CCB 1990); Tri-County Telephone Company, Inc., 54 R.R. 2d 1065 (CCB 1983).

<sup>16</sup> If the request were made after that, the FCC should still review it in light of the circumstances it describes and grant it, if on balance it will serve the public interest.

Such requests could be granted on delegated authority without a written order and would cause less disruption to the FCC's processes than having to reconcile inevitable waiver requests with the prior enunciation of an inflexible anti-reinstatement policy. We also submit that building such flexibility into the rules will not encourage a frivolous disregard of renewal filing requirements. Nothing is more important to licensees and their counsel than license renewals and no one with the responsibility for such an application would ever willfully fail to file timely even if reinstatement were presumptively likely.

The FCBA thus asks that the FCC's rules be modified to permit the reinstatement of license renewal applications under the circumstances described above.

### **III. Clarification of Several Points Is Necessary**

#### **A. The Commission Should Clarify Its Definition Of Site-Specific vs. Geographic Licenses**

The FCBA respectfully requests that the Commission clarify its definition of site-specific and geographically based licenses for wireless services. The Order establishes a dichotomy of services, those which are licensed on a site-specific basis and

those which are licensed by geographic area.<sup>17</sup> What is unclear is whether cellular services fall under either definition or whether the Commission considers cellular to be a hybrid.

In several sections of the Order,<sup>18</sup> the Commission discusses site-specific and geographically based services but never discusses where cellular services fall. At best, the *Order* provides only mixed signals. The Commission has decided that fixed microwave services fall under the site-specific category<sup>19</sup> and categorizes LMDS, 800 MHZ SMR and 220 MHZ as geographically licensed services.<sup>20</sup> However, in paragraph 150 of the ULS *Order*, it appears that the Commission may consider cellular a geographically based service, since the Commission discusses cellular map requirements in the context of streamlining geographic licensee technical reporting requirements.

If left unresolved, this situation could create unintended ambiguities and confusion. For instance, the *Order* states: "Moreover, if an interference issue arises between a geographic licensee and a site-based incumbent, we have

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<sup>17</sup> See Order at ¶¶ 30, 59.

<sup>18</sup> See Order at ¶¶ 59, 62, 63, 67, 68 and 73.

<sup>19</sup> See Order at 34, ¶68 and at 75, ¶164.

<sup>20</sup> See Order at 67, ¶¶145-46.

authority...to compel production of site location information by the geographic licensee as needed.”<sup>21</sup> This begs the question as to the category under which the Commission would consider a cellular licensee in this context.

It appears that cellular is a hybrid. It is licensed on a geographical basis (MSAs and RSAs) but individual, site-specific cells require licensure. The FCBA respectfully suggests that the classification of cellular may prove immaterial as long as the Commission clarifies that the *Order* did not intend to place any additional requirements upon cellular licenses other than those enunciated in the revised rules.<sup>22</sup>

**B.    The Commission Should Clarify That Maps Can Be Filed in Electronic Form in the Near Term**

The FCBA concurs with the FCC that paper maps should be phased out of the ULS environment as soon as ULS can generate maps

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<sup>21</sup> Order at 68, ¶148.

<sup>22</sup> The rules which are revised by this Order do not appear to adopt the site-specific/geographic dichotomy, but rather address licenses on a service specific basis. Section 1.929(a) specifically applies to all Wireless Radio Services “whether licensed geographically or on a site-specific basis...” Section 1.929(b) directly addresses additional provisions which apply to cellular licensees.

for the public.<sup>23</sup> To that end, the FCBA urges the Commission to establish a date certain by which the ULS mapping utility will be on-line and sufficient mapping information concerning each licensee input into ULS. Rather than input information from System Information Update maps which are over four years old,<sup>24</sup> the FCBA suggests that a more accurate source of technical information for each cellular system is contained within the Cellular Database Correction Letters filed by cellular licensees in 1998.

#### **IV. Significant Technical Complexities Associated With the ULS Require Commission Reconsideration**

The Commission's transition to an electronic application preparation, submission and processing regime represents a sweeping transformation of existing rules and procedures.<sup>25</sup> Given the magnitude of this change, the FCBA, and others, have urged the

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<sup>23</sup> Once cellular licensees begin filing electronically, paper maps will be manually filed along with the Form 159 and the filing fee. Before ULS, cellular maps were stapled to the application and filed in Pittsburgh. For the first time, in the ULS environment, maps will be sent to Pittsburgh without the application. The FCBA suggests that some identifier be attached to each map so that the map will be associated with its corresponding electronic filing.

<sup>24</sup> After the SIU maps were filed, a substantial number of cellular licensees significantly altered their CGSAs via the Phase II licensing process.

<sup>25</sup> Comments of FCBA at 10.

Commission to move slowly, affording applicants and licensees sufficient time and flexibility to implement the ULS. In particular, the FCBA urged the Commission to consider the significant, and in many respects unknown, technical difficulties that users of the ULS would likely encounter.<sup>26</sup> Nevertheless, the Order was largely silent regarding these concerns. Accordingly, the FCBA respectfully requests that the Commission reconsider its decision in the Order with respect to the following technical issues.

A.    The Commission Should Allow World Wide Web  
      Access to the ULS

The FCBA and other commenters in this proceeding asked that the ULS be made directly accessible over the Internet by means of a World Wide Web connection in addition to the dial-up point-to-point protocol ("PPP") adopted in the Order.<sup>27</sup> Doing so would make the ULS easier to access and utilize. Unfortunately, the Order did not address this issue. Informally, Commission staff have indicated that although the ULS is technically compatible with World Wide Web access, concern with data security requires that PPP

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<sup>26</sup> Comments of FCBA at 10; Reply Comments of FCBA at 6.

<sup>27</sup> Comments of BellSouth at 5-6, FCBA at 11-13, FIT at 7, SBC at 7 and UTC at 3-4; Reply Comments of API at 3, FCBA at 9-10 and Winstar at 2.

be the exclusive means of access. Nevertheless, the Commission has not, to date, offered an explanation for its decision to disallow World Wide Web access to the ULS.

While the FCBA concurs in the Commission's apparent conclusion that PPP circuit-based connections offer a certain measure of security and enhance interoperability over multi-vendor infrastructure, it is also clear that packet-switched web connections using web browser encryption technology offer a high degree of security and interoperability capabilities.<sup>28</sup> As UTC noted, "[t]o the extent security of [the] ULS is a concern, it is difficult to believe that the nature of the information available through the ULS would require use of a dedicated network, and that adequate protection could not be provided using traditional means of e-commerce security."<sup>29</sup> Moreover, assuming one access method may provide better security features than another, users of the ULS should be allowed the flexibility of making an access choice that

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<sup>28</sup> Comments of BellSouth at 5-6; FCBA Comments at 11-12, Forest Industries Telecommunications at 7, and Telecommunications Industry Association at 7.

<sup>29</sup> Comments of UTC at 4. Indeed, the Federal Trade Commission ("FTC") advises consumers that they can protect the security of their online transactions by using a browser equipped with industry-standard security measures such as Secure Socket Layer ("SSL") or Secure Electronic Transaction ("SET"). According to the FTC, "[t]hese standards encrypt or scramble the purchase information you send over the Internet, ensuring the security of your transaction." Cybersmarts: Tips for Protecting Yourself When Shopping Online (visited January 9, 1999) <<http://www.ftc.gov/bcp/conline/pubs/online/cybrsmrt.htm>>.

best suits their needs for a particular transaction. Similarly, if the Commission is concerned that a particular round of applications, such as auction applications, raise heightened security concerns, the Commission could require, on a case-by-case basis, that such applications be filed using the most secure access method supported by the ULS.

A further compelling reason for allowing World Wide Web access to the ULS is the fact that doing so will allow ULS access over high-speed data networks. Such access is particularly important when using the ULS to prepare applications for facilities that are heavily-laden with existing technical data. For example, users of the ULS have noted that substantial delays are encountered when modifications are prepared (or attempted) for multi-site Part 22 paging facilities using the ULS by means of the prescribed PPP connection to the Commission's wide area network at the maximum allowed baud rate of 28.8 kbps. Similar problems have been reported by users attempting modifications of cellular telephone licenses, and are likely to be encountered in much greater degree once the ULS becomes available for licensing in the microwave services. While such delays may be inconsequential for licensees with a limited number of facilities that infrequently require modification, for licensees with a significant number of facilities where modification and other applications are routinely required,

such delays amount to a substantial burden.

In sum, the FCBA reiterates its request that the Commission take a flexible approach in its implementation of the ULS. While the FCBA supports continued PPP access to the ULS, it questions why this should be the exclusive means of access. Toward this end, the FCBA believes that World Wide Web connectivity will allow users a familiar, readily available and faster means for accessing the ULS, while at the same time providing users with comparable security and interoperability features. The FCBA does not believe that the record in this proceeding justifies disallowing World Wide Web access to the ULS and urges Commission reconsideration on this issue.

**B. Grace Period Relief Should Be Afforded  
for ULS Users Experiencing Technical Failure**

Given the inherent technical complexities associated with the Commission's transition to an entirely electronic filing regime, the FCBA reiterates its support for the proposal by the American Petroleum Institute ("API") to provide a 24 hour grace period for applicants experiencing technical difficulties accessing the ULS.<sup>30</sup>

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<sup>30</sup> Comments of API at 5-6; Reply Comments of API at 2, The FCBA at 8.

For example, over the course of the last six months – virtually from the moment the ULS first went on-line – users of the ULS have encountered unanticipated software and network conflicts (particularly where ULS is accessed from a personal computer attached to an office network), as well as numerous periods of time where the ULS has been inaccessible. These problems have resulted in significant delays in preparing and submitting electronic filings.

A grace period provision would serve the public interest by not penalizing applicants experiencing technical problems beyond their control. To prevent abuses, the FCBA reiterates its support for API's proposal to require parties requesting such relief to submit a sworn statement specifying the nature of the technical difficulties that prevented filing. As every experienced computer user can attest, it is impossible to fully anticipate technical problems that will result with the utilization of new, complex computer applications until the applications are fully tested under a variety of real world circumstances; indeed, even after full deployment of an application, unanticipated technical problems frequently occur. Given the fact that the ULS will need to be integrated with myriad computer and peripheral configurations around the country, by persons of varying technical capability,

such problems are not only likely but inevitable. Further, adopting such a policy gives an incentive to carriers and counsel to become early adopters and thus smooth the transition to an electronic environment. Accordingly, the FCBA urges the Commission to reconsider API's grace period proposal, believing it will allow a flexible accommodation for users experiencing unforeseen technical difficulties with the ULS both during the transition period and thereafter.

CONCLUSION

For the foregoing reasons, the FCC should reconsider its rules and policies adopted in the Order in line with the proposals made above.

Respectfully submitted,

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